

HOUSE BILL 15

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HB 4/00 - ECM

2001 Regular Session
11r1292

(PRE-FILED)

By: **Delegates Busch, Taylor, Dewberry, Hurson, Arnick, Doory, Guns, Harrison, Hixson, Howard, Kopp, Menes, Montague, Owings, Rosenberg, Vallario, and Wood Wood, Barve, Brown, Burns, Cane, Cole, DeCarlo, Dembrow, Donoghue, Eckardt, Finifter, Frush, Giannetti, Goldwater, Gordon, Hammen, Heller, V. Jones, Kirk, Love, Mandel, McHale, Minnick, Moe, Morhaim, Pendergrass, Petzold, Pitkin, Riley, Rosso, Shriver, and Weir**

Requested: November 15, 2000
Introduced and read first time: January 10, 2001
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 13, 2001

CHAPTER _____

1 AN ACT concerning

2 **Nonprofit Health Entity Accountability**

3 FOR the purpose of requiring nonprofit hospitals to consider a certain assessment, if
4 available, in identifying certain health care needs; allowing nonprofit hospitals
5 to consult with certain individuals in identifying certain health care needs;
6 requiring nonprofit hospitals to submit a certain report to the Health Services
7 Cost Review Commission; specifying the contents of a certain report; requiring
8 the Commission to prepare a certain report; requiring the Commission to make
9 a certain report available to the public; requiring the Commission to submit a
10 certain report to the House Economic Matters Committee and the Senate
11 Finance Committee annually; requiring the Commission to establish a format
12 for reporting certain information; expressing a certain public policy; imposing
13 certain requirements on certain nonprofit health service plans; ~~making a certain~~
14 ~~tax exemption subject to certain requirements~~ requiring certain nonprofit
15 health service plans to use certain funds in a certain manner; requiring certain
16 nonprofit health service plans to submit an annual report; providing that a
17 nonprofit health service plan can satisfy certain requirements by establishing
18 certain facts; providing that a specific activity does not satisfy certain
19 requirements; exempting certain nonprofit health service plans from certain
20 requirements; requiring the Insurance Commissioner to report a certain
21 determination to certain committees of the General Assembly; providing that

1 certain nonprofit health service plans have a certain amount of time to comply
2 with a certain order; altering a certain standard for determining excess surplus
3 for nonprofit health service plans; requiring the Maryland Insurance
4 Commissioner to issue a certain order; requiring the Commission to adopt
5 certain regulations in consultation with certain individuals; prohibiting the
6 Commission from requiring a certain report before a certain date; defining
7 certain terms; providing certain penalties; providing for a certain hearing; and
8 generally relating to nonprofit health entities.

9 BY adding to
10 Article - Health - General
11 Section 19-303
12 Annotated Code of Maryland
13 (2000 Replacement Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Insurance
16 Section 6-101
17 Annotated Code of Maryland
18 (1997 Volume and 2000 Supplement)

19 BY adding to
20 Article - Insurance
21 Section 14-106 and 14-107
22 Annotated Code of Maryland
23 (1997 Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Insurance
26 Section 14-117(e)
27 Annotated Code of Maryland
28 (1997 Volume and 2000 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Health - General**

32 19-303.

33 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

35 (2) "COMMISSION" MEANS THE HEALTH SERVICES COST REVIEW
36 COMMISSION.

1 (3) "COMMUNITY BENEFIT" MEANS AN ACTIVITY THAT IS INTENDED TO
2 ADDRESS COMMUNITY NEEDS AND PRIORITIES PRIMARILY THROUGH DISEASE
3 PREVENTION AND IMPROVEMENT OF HEALTH STATUS, INCLUDING:

4 (I) HEALTH SERVICES PROVIDED TO VULNERABLE OR
5 UNDERSERVED POPULATIONS SUCH AS MEDICAID, MEDICARE, OR MARYLAND
6 CHILDREN'S HEALTH PROGRAM ENROLLEES;

7 (II) FINANCIAL OR IN KIND SUPPORT OF PUBLIC HEALTH
8 PROGRAMS;

9 (III) DONATIONS OF FUNDS, PROPERTY, OR OTHER RESOURCES
10 THAT CONTRIBUTE TO A COMMUNITY PRIORITY;

11 (IV) HEALTH CARE COST CONTAINMENT ACTIVITIES; AND

12 (V) HEALTH EDUCATION, SCREENING, AND PREVENTION
13 SERVICES.

14 (4) "COMMUNITY NEEDS ASSESSMENT" MEANS THE PROCESS BY WHICH
15 UNMET COMMUNITY HEALTH CARE NEEDS AND PRIORITIES ARE IDENTIFIED.

16 (B) IN IDENTIFYING COMMUNITY HEALTH CARE NEEDS, A NONPROFIT
17 HOSPITAL:

18 (1) SHALL CONSIDER, IF AVAILABLE, THE MOST RECENT COMMUNITY
19 NEEDS ASSESSMENT DEVELOPED BY THE DEPARTMENT OR THE LOCAL HEALTH
20 DEPARTMENT FOR THE COUNTY IN WHICH THE NONPROFIT HOSPITAL IS LOCATED;

21 (2) MAY CONSULT WITH COMMUNITY LEADERS AND LOCAL HEALTH
22 CARE PROVIDERS; AND

23 (3) MAY CONSULT WITH ANY APPROPRIATE PERSON THAT CAN ASSIST
24 THE HOSPITAL IN IDENTIFYING COMMUNITY HEALTH NEEDS.

25 (C) (1) EACH NONPROFIT HOSPITAL SHALL SUBMIT AN ANNUAL
26 COMMUNITY BENEFIT REPORT TO THE HEALTH SERVICES COST REVIEW
27 COMMISSION DETAILING THE COMMUNITY BENEFITS PROVIDED BY THE HOSPITAL
28 DURING THE PRECEDING YEAR.

29 (2) THE COMMUNITY BENEFIT REPORT SHALL INCLUDE:

30 (I) THE MISSION STATEMENT OF THE HOSPITAL;

31 (II) A LIST OF THE INITIATIVES THAT WERE UNDERTAKEN BY THE
32 HOSPITAL;

33 (III) THE COST TO THE HOSPITAL OF EACH COMMUNITY BENEFIT
34 INITIATIVE;

1 (IV) THE OBJECTIVES OF EACH COMMUNITY BENEFIT INITIATIVE;
2 AND

3 (V) ~~AN EVALUATION OF THE EFFECTIVENESS OF EACH INITIATIVE;~~
4 A DESCRIPTION OF EFFORTS TAKEN TO EVALUATE THE EFFECTIVENESS OF EACH
5 COMMUNITY BENEFIT INITIATIVE. AND

6 ~~(VI) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.~~

7 (D) (1) THE COMMISSION SHALL COMPILE THE REPORTS REQUIRED UNDER
8 SUBSECTION (C) OF THIS SECTION AND ISSUE AN ANNUAL NONPROFIT HOSPITAL
9 COMMUNITY HEALTH BENEFIT REPORT.

10 (2) IN ADDITION TO THE INFORMATION REQUIRED UNDER PARAGRAPH
11 (1) OF THIS SUBSECTION, THE NONPROFIT HOSPITAL COMMUNITY HEALTH BENEFIT
12 REPORT SHALL CONTAIN A LIST OF THE UNMET COMMUNITY HEALTH CARE NEEDS
13 IDENTIFIED IN THE MOST RECENT COMMUNITY NEEDS ASSESSMENT PREPARED BY
14 THE DEPARTMENT OR LOCAL HEALTH DEPARTMENT FOR EACH COUNTY.

15 (3) THE NONPROFIT HOSPITAL COMMUNITY BENEFIT REPORT SHALL BE
16 MADE AVAILABLE TO THE PUBLIC FREE OF CHARGE.

17 (4) THE COMMISSION SHALL SUBMIT A COPY OF THE ANNUAL
18 NONPROFIT HOSPITAL COMMUNITY BENEFIT REPORT, SUBJECT TO § 2-1246 OF THE
19 STATE GOVERNMENT ARTICLE TO THE HOUSE ECONOMIC MATTERS COMMITTEE
20 AND THE SENATE FINANCE COMMITTEE.

21 (E) THE COMMISSION SHALL ADOPT REGULATIONS, IN CONSULTATION WITH
22 REPRESENTATIVES OF NONPROFIT HOSPITALS, THAT ESTABLISH:

23 (1) A STANDARD FORMAT FOR REPORTING THE INFORMATION
24 REQUIRED UNDER THIS SECTION;

25 (2) THE DATE ON WHICH NONPROFIT HOSPITALS MUST SUBMIT THE
26 ANNUAL COMMUNITY BENEFIT REPORTS; AND

27 (3) THE PERIOD OF TIME THAT THE ANNUAL COMMUNITY BENEFIT
28 REPORT MUST COVER.

29 **Article - Insurance**

30 6-101.

31 (a) The following persons are subject to taxation under this subtitle:

32 (1) a person engaged as principal in the business of writing insurance
33 contracts, surety contracts, guaranty contracts, or annuity contracts;

34 (2) an attorney in fact for a reciprocal insurer;

1 (3) the Maryland Automobile Insurance Fund; and

2 (4) a credit indemnity company.

3 (b) The following persons are not subject to taxation under this subtitle:

4 (1) a nonprofit health service plan corporation THAT MEETS THE
5 REQUIREMENTS ESTABLISHED UNDER §§ 14-106 AND 14-107 OF THIS ARTICLE;

6 (2) a fraternal benefit society;

7 (3) a health maintenance organization authorized by Title 19, Subtitle 7
8 of the Health - General Article;

9 (4) a surplus lines broker, who is subject to taxation in accordance with
10 Title 3, Subtitle 3 of this article;

11 (5) an unauthorized insurer, who is subject to taxation in accordance
12 with Title 4, Subtitle 2 of this article; or

13 (6) the Short-Term Prescription Drug Subsidy Plan created under Title
14 15, Subtitle 6 of the Health - General Article.

15 14-106.

16 (A) IT IS THE PUBLIC POLICY OF THIS STATE THAT THE EXEMPTION FROM
17 TAXATION FOR NONPROFIT HEALTH SERVICE PLANS UNDER § 6-101(B)(1) OF THIS
18 ARTICLE IS GRANTED SO THAT FUNDS WHICH WOULD OTHERWISE BE COLLECTED
19 BY THE STATE AND SPENT FOR A PUBLIC PURPOSE SHALL BE USED IN A LIKE
20 MANNER AND AMOUNT BY THE NONPROFIT HEALTH SERVICE PLAN.

21 (B) THIS SECTION DOES NOT APPLY TO A NONPROFIT HEALTH SERVICE PLAN
22 THAT INSURES FEWER THAN 10,000 COVERED LIVES IN MARYLAND.

23 ~~(B)~~ (C) BY MARCH 1 OF EACH YEAR OR A DEADLINE OTHERWISE IMPOSED
24 BY THE COMMISSIONER FOR GOOD CAUSE, EACH NONPROFIT HEALTH SERVICE PLAN
25 SHALL FILE WITH THE COMMISSIONER A PREMIUM TAX EXEMPTION REPORT THAT:

26 (1) IS IN A FORM APPROVED BY THE COMMISSIONER; AND

27 (2) DEMONSTRATES THAT THE PLAN HAS USED FUNDS EQUAL TO THE
28 VALUE OF THE PREMIUM TAX EXEMPTION PROVIDED TO THE PLAN UNDER § 6-101(B)
29 OF THIS ARTICLE, IN A MANNER THAT SERVES THE PUBLIC INTEREST IN
30 ACCORDANCE WITH SUBSECTION ~~(C)~~ (D) OF THIS SECTION.

31 ~~(C)~~ (D) EXCEPT AS PROVIDED IN SUBSECTION ~~(D)~~ (E) OF THIS SECTION, A
32 NONPROFIT HEALTH SERVICE PLAN MAY SATISFY THE PUBLIC SERVICE
33 REQUIREMENT IN SUBSECTION ~~(B)~~ (C)(2) OF THIS SECTION BY ESTABLISHING THAT
34 THE PLAN HAS:

1 (1) INCREASED ACCESS TO, OR THE AFFORDABILITY OF, ONE OR MORE
 2 HEALTH CARE PRODUCTS OR SERVICES BY OFFERING AND SELLING HEALTH CARE
 3 PRODUCTS OR SERVICES THAT ARE NOT REQUIRED OR PROVIDED FOR BY LAW; OR

4 ~~(2) THROUGH PRICING POLICIES DESIGNED TO ENHANCE THE~~
 5 ~~AFFORDABILITY OF HEALTH CARE PRODUCTS OR SERVICES THAT ARE REQUIRED OR~~
 6 ~~PROVIDED FOR BY LAW, USED A GREATER PERCENTAGE OF PREMIUMS COLLECTED~~
 7 ~~FOR MEDICAL CARE THAN A COMPARABLE FOR PROFIT HEALTH INSURER AS~~
 8 ~~DETERMINED BY THE COMMISSIONER;~~

9 ~~(3) USED UNDERWRITING STANDARDS NOT REQUIRED BY LAW TO~~
 10 ~~INCREASE THE AVAILABILITY OF ONE OR MORE HEALTH CARE SERVICES OR~~
 11 ~~PRODUCTS; OR~~

12 ~~(4) (2)~~ SERVED THE PUBLIC INTEREST BY ANY METHOD OR PRACTICE
 13 APPROVED BY THE COMMISSIONER.

14 ~~(D)~~ (E) THE COMMISSIONER MAY NOT CONSIDER THE FACT THAT A
 15 NONPROFIT HEALTH SERVICE PLAN OFFERS A PRODUCT THROUGH THE
 16 SUBSTANTIAL, AVAILABLE, AFFORDABLE COVERAGE PROGRAM WHEN DETERMINING
 17 WHETHER THE PLAN HAS SATISFIED THE REQUIREMENTS OF SUBSECTION ~~(B)~~ (C)(2)
 18 OF THIS SECTION.

19 ~~(E)~~ (F) EACH REPORT FILED WITH THE COMMISSIONER UNDER
 20 SUBSECTION ~~(B)~~ (C) OF THIS SECTION IS A PUBLIC RECORD.

21 14-107.

22 (A) BY NOVEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL ISSUE AN
 23 ORDER NOTIFYING EACH NONPROFIT HEALTH SERVICE PLAN THAT IS REQUIRED TO
 24 FILE A REPORT UNDER § 14-106 OF THIS SUBTITLE OF WHETHER THE PLAN HAS
 25 SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.

26 (B) (1) IF THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
 27 SERVICE PLAN HAS NOT SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS
 28 SUBTITLE, THE NONPROFIT HEALTH SERVICE PLAN SHALL HAVE 1 YEAR FROM THE
 29 DATE THE COMMISSIONER ISSUED THE ORDER UNDER SUBSECTION (A) OF THIS
 30 SECTION TO COMPLY WITH THE REQUIREMENTS OF § 14-106 OF THIS SUBTITLE.

31 (2) IF AFTER THE TIME PERIOD PROVIDED UNDER PARAGRAPH (1) OF
 32 THIS SUBSECTION THE COMMISSIONER DETERMINES THAT A NONPROFIT HEALTH
 33 SERVICE PLAN HAS NOT SATISFIED THE REQUIREMENTS OF § 14-106 OF THIS
 34 SUBTITLE;

35 (I) THE COMMISSIONER SHALL REPORT THE DETERMINATION TO
 36 THE HOUSE ECONOMIC MATTERS COMMITTEE AND THE SENATE FINANCE
 37 COMMITTEE, INCLUDING THE REASONS FOR THE DETERMINATION; AND

38 (II) IF REQUIRED BY AN ACT OF THE GENERAL ASSEMBLY, THE
 39 NONPROFIT HEALTH SERVICE PLAN SHALL BE SUBJECT TO THE PREMIUM TAX

1 UNDER TITLE 6, SUBTITLE 1 OF THIS ARTICLE, ~~BEGINNING IN THE NEXT CALENDAR~~
2 ~~YEAR.~~

3 (C) A NONPROFIT HEALTH SERVICE PLAN THAT FAILS TO TIMELY FILE THE
4 REPORT REQUIRED UNDER § 14-106 OF THIS SUBTITLE:

5 ~~(1) SHALL PAY THE PENALTIES UNDER § 14-121 OF THIS SUBTITLE; AND~~

6 ~~(2) MAY BE SUBJECT TO AN ORDER REQUIRING THE PLAN TO PAY THE~~
7 ~~PREMIUM TAX.~~

8 (D) A PARTY AGGRIEVED BY AN ORDER OF THE COMMISSIONER ISSUED
9 UNDER THIS SECTION HAS A RIGHT TO A HEARING IN ACCORDANCE WITH §§ 2-210
10 THROUGH 2-215 OF THIS ARTICLE.

11 14-117.

12 (e) (1) The surplus of a corporation authorized under this subtitle may be
13 considered to be excessive only if:

14 (i) the surplus is greater than [30% of the total earned premium
15 received by the corporation in] ~~THE APPLICABLE~~ APPROPRIATE RISK BASED CAPITAL
16 REQUIREMENTS AS DETERMINED BY THE COMMISSIONER FOR the immediately
17 preceding calendar year; and

18 (ii) after a hearing, the Commissioner determines that the surplus
19 is unreasonably large.

20 (2) After the Commissioner has determined the surplus of a corporation
21 authorized under this subtitle to be excessive, the Commissioner:

22 (i) may order the corporation to submit a plan for distribution of
23 the excess in a fair and equitable manner; or

24 (ii) if the corporation fails to submit a plan of distribution within 60
25 days, may compile a plan and order the corporation to implement it.

26 (3) A distribution ordered under paragraph (2) of this subsection may be
27 made only to subscribers who are covered by the corporation's nonprofit health
28 service plan at the time the distribution is made.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Health Services Cost
30 Review Commission may not require a nonprofit hospital to submit its first annual
31 community benefit report required under § 19-303 of the Health - General Article, as
32 enacted by this Act, before October 1, 2002.

33 ~~SECTION 2 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
34 effect October 1, 2001.

